



FEDERAL ELECTION COMMISSION
Washington, DC 20463

Jan Baran, Esq.
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

March 19th, 1999

RE: MUR 4546
Friends for Jack Metcalf Committee
and Frank McCord, as treasurer

Dear Mr. Baran:

On March 15, 1999, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your client's behalf in settlement of a violation of 2 U.S.C. § 434(b)(3)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 60 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1650.

Sincerely,


Tara D. Meeker
Attorney

Enclosure
Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

FEB 26 3 51 PM '99

In the Matter of)

Friends for Jack Metcalf and)

Frank M. McCord, as)

treasurer)

MUR 4546

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Paul Berendt ("Complainant"). The Federal Election Commission ("Commission") found probable cause to believe that Friends for Jack Metcalf and Frank M. McCord, as treasurer ("Respondents" or "Committee") violated 2 U.S.C. § 434(b)(3)(A).

NOW, THEREFORE, the Commission and the Respondents, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding.

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Friends for Jack Metcalf is a political committee within the meaning of 2 U.S.C. § 431(4) and is the principal campaign committee of Jack Metcalf ("candidate"), Republican candidate for the U.S. House of Representatives from Washington State in 1996.

2. Frank M. McCord is the treasurer for Friends for Jack Metcalf.

3. The Federal Election Campaign Act of 1971, as amended, ("Act") requires political committees to file periodic reports of receipts and disbursements.

2 U.S.C. § 434(a)(1). Under 2 U.S.C. § 434(b)(3)(A), each report must also disclose the identification of each person making aggregate contributions to the reporting committee in excess of \$200 in the calendar year. The term "person" includes individuals.

2 U.S.C. § 431(11). Identification of an individual includes the name, mailing address, occupation of the individual and the name of the individual's employer.

2 U.S.C. § 431(13).

4. Where a committee can show that it has made "best efforts" to obtain, maintain and submit the information required by 2 U.S.C. § 431(13), any report or records of the committee shall be considered in compliance with the Act.

2 U.S.C. § 432(i).

5. As of March 3, 1994, a committee demonstrates "best efforts" by making at least one follow-up, stand-alone request for missing information within thirty days of receipt of a contribution with incomplete contributor identification without also soliciting another contribution, and by reporting previously missing information in amendments to the reports. 11 C.F.R. § 104.7(b)

6. In Republican National Committee, et al. v. FEC, Civil Action No. 94-5248 (D.C. Cir. 1996), the United States Court of Appeals for the District of Columbia Circuit upheld the requirement for a stand-alone follow-up request to obtain missing contributor information.

7. A review of the reports filed by the Committee for the period of January 1, 1996, through September 30, 1996, showed the following omission rates for occupation information:

REPORT TYPE/YEAR	# TOTAL ENTRIES	# ENTRIES W/O INFO.	% OMISSION
1996 April Quarterly (Q1)	30	19	63%
1996 July Quarterly (Q2)	115	85	74%
1996 October Quarterly (Q3)	42	29	69%

8. Amendments to these three Quarterly Reports were not submitted by the Committee until November 19, 1997, more than one full year after the 1996 election.

9. Respondents' practice of sending letters to obtain missing contributor information did not comply with the requirements of 11 C.F.R. § 104.7(b): (1) they did not send these letters within thirty days of the receipt of a contribution; and (2) they did not file timely amendments to report the previously missing contributor information.

10. In order to have the incomplete reports deemed in compliance with the Act and to avoid a violation, Respondents must demonstrate that they made "best efforts" under revised 11 C.F.R. § 104.7(b).

11. Respondents failed to provide complete contributor information and did not comply with the requirements for demonstrating "best efforts" under 11 C.F.R. § 104.7(b).

V. During the period January 1, 1996, through September 30, 1996, Respondents' incomplete reports were not in compliance with the Act and thus in violation of 2 U.S.C. § 434(b)(3)(A). Furthermore, Respondents failed to demonstrate "best efforts" under revised 11 C.F.R. § 104.7(b).

VI. Respondents agree to pay a civil penalty to the Federal Election Commission in the amount of seven thousand dollars (\$7,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than sixty (60) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.


X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either

written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

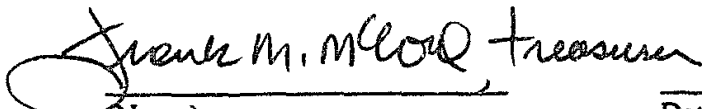
Lawrence M. Noble
General Counsel

BY:


Lois G. Lerner
Associate General Counsel

3/18/99
Date

FOR THE RESPONDENTS:

 treasurer Feb. 25, 1999
(Name) Date
(Position)